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**COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING AND BUILDING
STAFF REPORT**

Board of Supervisors

MEETING DATE July 16, 2013	CONTACT/PHONE Terry Wahler, 781-5621	APPLICANT Claudine Blackwell	FILE NO. AGP2009-00025
SUBJECT Reconsideration of a proposal by Claudine Blackwell to alter the boundaries of an agricultural preserve and rescind and simultaneously enter into a new contract to reflect a lot line adjustment. The resulting parcel will remain at approximately 120 acres. The project site is located in the Agriculture land use category at 1030 Penman Springs Road, approximately 0.5 mile southeast of the intersection of Penman Springs Road and Union road, approximately 1.1 mile east of the City of Paso Robles, in the El Pomar-Estrella Planning Area.			
RECOMMENDED ACTION The Agricultural Preserve Review Committee and Planning Commission recommend approval of this request to amend an agricultural preserve to the Board of Supervisors as follows: <p style="text-align: center;"> Preserve Designation: El Pomar Agricultural Preserve No. 71 Amendment No. 1 Minimum Parcel Size: 160 Acres Minimum Term of Contract: 10 years </p>			
ENVIRONMENTAL DETERMINATION Categorical Exemption (Class 17)			
LANDUSE CATEGORY Agriculture	COMBINING DESIGNATION None	ASSESSOR PARCEL NO: 015-053-027 & 28	SUPERVISOR DISTRICT(S) 5
PLANNING AREA STANDARDS: None Applicable		LAND USE ORDINANCE STANDARDS: Section 22.22.040C(2) – Minimum parcel size for new agricultural preserves	
EXISTING USES: Irrigated vineyard, cattle grazing, oak woodland, two residences, agricultural accessory buildings			
SURROUNDING LAND USE CATEGORIES AND USES: <i>North:</i> Agriculture/orchard, grazing, oak trees <i>East:</i> Agriculture/dry farm, grazing, oak trees <i>South:</i> Agriculture/grazing & Residential Rural/residences <i>West:</i> Agriculture/ dry farm, grazing			
OTHER AGENCY / ADVISORY GROUP INVOLVEMENT: None, no referrals necessary			
TOPOGRAPHY: Gently sloping		VEGETATION: Oak trees	
PROPOSED SERVICES: None required		ACCEPTANCE DATE: March 21, 2013	
ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF PLANNING & BUILDING AT: COUNTY GOVERNMENT CENTER - SAN LUIS OBISPO, CALIFORNIA 93408 (805) 781-5600 FAX: (805) 781-1242			

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PROJECT REVIEW

Revised Request

The application to amend the agricultural preserve boundaries was reviewed by staff in 2010, carried forward to the Agricultural Preserve Review Committee for their recommendation and placed on the Planning Commission consent agenda for their consideration prior to being approved by the Board of Supervisors on November 9, 2010.

The contract was prepared and timed to coincide with the processing of the certificates of compliance (to final the lot line adjustment) as is customary in these situations. When the applicants were presented with the contract for signature they became concerned about the 20 year term of the contract.

The first ten years of the existing land conservation contract has run and the contract is now maintaining a ten year term as mandated by the Williamson Act and implemented in the terms of the contract. Because new contracts in our county are required to have a 20 year term in most instances and the Williamson Act requires contracts undergoing lot line adjustment to have new contracts, they typically have a 20 year term. Also, some but not all lot line adjustments involve major reconfiguration of existing substandard parcels for the purpose of future conveyance. A 20 year term is often recommended in these situations to help protect agricultural lands with the full 20 year term.

The contract term issue was reviewed with County Counsel and it was determined that it is not mandatory to have 20 year terms for properties rescinding their existing contracts and entering into new contracts, since the Williamson Act only requires a 10 year term.

The landowner is concerned about future estate issues and wants to retain the flexibility of the existing 10 year term. In light of the minor nature of the lot line adjustment, and the fact that in some instances in the past a 10 year term has been recommended by the Review Committee and approved by the Board of Supervisors, staff is recommending a 10 year term for the new contract.

Background

The application to amend the agricultural preserve boundaries is driven by a lot line adjustment application (COAL 08-0158/SUB2008-00053). The lot line adjustment involves a very minor exchange of land between the applicant and a neighboring land owner as a remedy to three different fence line encroachments.

The applicant, Claudine Blackwell is transferring 0.43 of an acre to the neighboring land owners (Harnish Trust). The alteration of the agricultural preserve boundaries and new contracts are necessary because both parcels involved in the lot line adjustment are under separate land conservation contracts and different agricultural preserves. The lot line adjustment also includes a quiet title action for a small strip of land between the two land holdings, correcting a long standing legal description discrepancy, but it does not involve the existing contracts.

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The Blackwell property (APNs 015-053-027 & 028) is in El Pomar Agricultural Preserve No. 71 established on 10/28/97 by Resolution No. 97-436 and under a land conservation contract recorded on 12/18/97 as Document No. 1997-071169. The Harnish Trust property (APN 015-053-008) is part of El Pomar Agricultural Preserve No. 1 established on 1/3/72 by Resolution No. 72-2 and under a land conservation contract recorded on 2/14/72 as Document No. 4635 in Book 1653, Pages 388 through 403 inclusive.

Site and Area Characteristics

The land areas being exchanged are almost entirely comprised of non-irrigated Class 4 soil, according to the Natural Resources Conservation Service soils survey. The portions of land being exchanged are all narrow strips of fallow land. The majority of the Blackwell property is planted in irrigated vineyard with the remainder used for rangeland. The Harnish Trust property to the south and east is almost entirely dry farm. The small strips of land being exchanged to correct the fence line encroachment are not being actively farmed since they are on the periphery of the cultivated areas of both properties.

Exhibit A shows the location, topography, and land use designations of the site and adjacent properties

Compliance with the Williamson Act and the Rules of Procedure

The existing property subject to contract includes approximately 120 acres of land with a combination of irrigated and grazing land. The area being exchanged is of like quality soil and like acreage. The resulting parcel configuration represents a “status quo” in terms of agricultural productivity.

The lot line adjustment is consistent with the Williamson Act, Government Code Section 51257. (a) & (b) because the resulting property will consist of at least 90 percent of the land under former contract resulting in no net loss of land under contract, and the land area exchanged is generally of like quality and acreage. (This section of the Government code is focused on the equal exchange of contracted and non-contracted land, however it is still necessary to do this analysis and make the required findings.)

Because the current minimum parcel size on the existing contract is 160 acres and the property consists of both irrigated vineyard and rangeland, the appropriate minimum parcel size is 160 acres.

The appropriate term for the new contract is 10 years since the existing contract is currently maintaining a 10 year term and the lot line adjustment that made the amendment to the agricultural preserve boundaries and new contract necessary, is very minor in nature.

Agricultural Preserve Review Committee

The following is an excerpt from the Minutes of the Regular Meeting of the Agricultural Preserve Review Committee held on April 22, 2013 at the Veteran’s Hall, 801 Grand Ave, San Luis Obispo, California, at 1:00 p.m.

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Nancy Orton, Planning Department Review Committee Regular Member and Chairperson: introduces item.

The Farm Bureau Alternate Member is now present.

Terry Wahler, staff: presents staff report, describes the property, agricultural use and basis for eligibility. Indicates that the Review Committee has in the past sometimes recommended approval of 10 year terms where properties are already under contract and just doing replacement contracts.

Michael Garcia: Notes that the similar Johansing application was recently approved with a 10 year term at the request of the applicant.

Irv McMillan: asks about the NRCS soil classes and what the property is being used for currently.

Terry Wahler: Responds that the small area subject to lot line adjustment just involves fence line encroachments and that there is no agricultural use, no irrigated agriculture of these small areas. The Blackwell property has some irrigated vineyard elsewhere on the property; however it is not related to the lot line adjustment. Mr. Wahler indicates that the Harnish property, the other property in the lot line adjustment, is used for dry farm. A detailed soils evaluation was not warranted due to the small land area being exchanged and the lack of agricultural use in the areas subject to the lot line adjustment and the agricultural preserve boundary amendments.

Irv McMillan: asks if it is actively dry land farmed with Mr. Wahler stating yes, the neighboring Blackwell property is actively dry farmed.

Royce Larson: asks if the two residences were evaluated for compliance with Mr. Wahler explaining in this case they were established prior to the rule change regarding residential density brought about by the Laird Bill in 2004.

Robert Sparling: asks how long has this been irrigated with Ms. Jamie Kirk (agent) explaining this property has been planted in irrigated vineyard since 1989.

Following the discussion, Dana Merrill moved to recommend to the Board of Supervisors, approval of this request to alter the boundaries of an agricultural preserve, rescind an existing land conservation contract and simultaneously enter into a new land conservation contract to reflect a lot line adjustment. Preserve Designation: El Pomar Agricultural Preserve No. 71 Amendment No. 1. Minimum Parcel Size: 160 acres. Minimum Term of Contract: 10 years. This motion was seconded by Jennifer Anderson, and unanimously carried on a 13-0 vote with all members or alternate members present.

RECOMMENDATIONS

The Agricultural Preserve Review Committee and Planning Commission recommend approval of this request to amend an agricultural preserve to the Board of Supervisors as follows:

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Preserve Designation: El Pomar Agricultural Preserve No. 71 Amendment No. 1

Minimum Parcel Size: 160 acres

Minimum Term of Contract: 10 years

FINDINGS

- A.** The proposed amendment of this agricultural preserve is consistent with the San Luis Obispo County General Plan, including the Land Use Element, the Agriculture Element, the Conservation and Open Space Element, and the county's Rules of Procedure to Implement the California Land Conservation Act of 1965 since the preserve is being adjusted to reflect new property boundaries and the agricultural land uses and agricultural productivity will be unchanged.
- B.** The proposed amendment of this agricultural preserve is appropriate and consistent with the rural character of the surrounding area.
- C.** The new contract will enforceably restrict the adjusted boundaries of the newly configured parcel for a minimum of ten years.
- D.** There is no net decrease in the amount of acreage restricted by land conservation contract.
- E.** The new contract for the resulting parcel will consist of at least 90 percent of the land under the former contract.
- F.** The parcel of land after the adjustment will be large enough to sustain the current agricultural use.
- G.** The lot line adjustment will not compromise the long-term agricultural productivity of the parcel or other agricultural lands subject to contract.
- H.** The lot line adjustment will not be likely to result in the removal of adjacent land from agricultural use.
- I.** The lot line adjustment does not result in a greater number of developable parcels than existed prior to the adjustment, or an adjusted lot that is inconsistent with the general plan.

Report prepared by Terry Wahler, Senior Planner
and reviewed by Bill Robeson, Supervising Planner
Agricultural Preserve Program